

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

REPLY COMMENTS OF FAIRPOINT COMMUNICATIONS, INC.

On behalf of its wholly-owned regulated subsidiaries FairPoint Communications, Inc. (“FairPoint”) respectfully replies to comments on its request for a limited waiver of the new call signaling rules¹ adopted by the Commission as part of the *USF/ICC Transformation Order*.² As FairPoint described in its petition, a limited waiver of the rules is necessary because it is unreasonably burdensome or simply not feasible for FairPoint to implement the new phantom traffic rules in all circumstances. The record of this proceeding confirms that

¹ *FairPoint Communications, Inc. Petition for Limited Waiver*, WC Docket No. 10-90 (filed Mar. 28, 2012) (“FairPoint Petition”). See also *Alaska Rural Coalition and FairPoint Communications, Inc. Petitions For Limited Waiver Of Call Signaling Rules*, WC Docket No. 10-90, Public Notice, DA 12-494 (rel. Apr. 4, 2012).

² *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 para. 723 (Nov. 18, 2011) (“*USF/ICC Transformation Order*”).

the requested waiver is warranted for good cause and grant of the waiver to FairPoint is consistent with the public interest.

As FairPoint asserted in its petition, it is strongly supportive of call signaling rules to put a stop to phantom-traffic practices intended to allow certain carriers to evade their legal obligations to pay lawful charges for traffic they terminate on other carriers' networks. However, as discussed in the FairPoint Petition, strict compliance in all cases with such rules will be unreasonably burdensome, if not technically infeasible, a fact that is underscored by similar petitions filed by many other carriers.³ Although the Commission declined to adopt general exceptions to the call signaling rules for circumstances in which it would not be technically feasible to comply, it nonetheless acknowledged that there could be legitimate circumstances in which carriers would not be technically capable of full compliance, with no intention to evade the letter or spirit of the rule.⁴ For this reason, the Commission encouraged carriers to request waivers under these circumstances.

Only two parties commented on the FairPoint Petition: the United States Telecom Association ("USTA")⁵ and a group telecommunications industry trade associations (the "Associations"),⁶ both of which supported FairPoint's request. However, while USTA's

³ See, e.g. *AT&T Petition for Limited Waiver*, WC Docket No. 10-90 (filed Dec. 29, 2011); *CenturyLink Inc. Petition for Limited Waiver*, WC Docket No. 10-90 (filed Jan. 23, 2012); *Petition for Limited Waiver of Verizon*, WC Docket No. 10-90 (filed Feb. 10, 2012); *Petition for Limited Waiver of Hawaiian Telecom, Inc.*, WC Docket No. 10-90 (filed Mar. 1, 2012); *Alaska Rural Coalition's Petition for Limited Waiver*, WC Docket No. 10-90 (filed Mar. 23, 2012); *Petition of Consolidated Communications, Inc. for Limited Waiver*, WC Docket No. 10-90 (filed May 11, 2012).

⁴ *USF/ICC Transformation Order* para. 723.

⁵ Comments of the United States Telecom Association, WC Docket No. 10-90 (filed May 4, 2012).

⁶ Comments of the National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, Western Telecommunications Alliance, and the National Exchange Carrier Association, Inc., WC Docket No. 10-90 (filed May 4, 2012).

support was unconditional, the Associations proposed that the Commission attach certain conditions to the grant of the waiver, specifically that FairPoint publish a list of switches covered by the waiver, provide terminating carriers with information necessary to audit PIUs and/or call records, and submit reports to the Commission at regular intervals detailing the status of its efforts to upgrade its network to come into compliance with the rules.

These conditions are not necessary, and would in fact simply add burdens that would defeat much of the purpose of the requested waiver. In its petition, FairPoint indicated that it had not fully tabulated the number of switches. It would serve no purpose for FairPoint to divert resources to accelerate this process or to provide reports as a condition of the waiver. Furthermore, through its tariffs and its conformance to standard industry practices, FairPoint currently provides information sufficient for other carriers to settle any interconnection compensation obligations and to audit them if necessary. Nothing in the record even hints that there is cause to doubt FairPoint's eagerness to cooperate with other carriers. Consequently, there is no cause to establish additional procedures for the reporting of call data. Finally, the Associations' proposal that FairPoint report on the status of network upgrades is largely *non sequitur*, since FairPoint has not committed to any network upgrades. Indeed, as stated throughout the FairPoint Petition, the reason for the waiver request is to *avoid* wasteful network upgrades that would serve no long term purpose.

The Associations' proposed conditions would impose additional costs of compliance with no corresponding benefits that would warrant their adoption. FairPoint respectfully requests that the Commission grant FairPoint's request for a limited waiver of the new phantom traffic rules with respect to (1) certain SS7 network elements and (2) multi-frequency (MF) signaling equipment, with no additional conditions.

Respectfully submitted,

Dated: May 21, 2012

/s/

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